

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

Michael Shavers #38702,

Plaintiff,

v

No 2:07-cv-171
HON. R. ALLAN EDGAR

Unknown Stasewich and
Unknown Enterline,

Defendants,

_____ /

MEMORANDUM

This case brought by an inmate of the Michigan Department of Corrections was filed on August 27, 2007. Since then it has been through a long and tortured history exemplified by the fact that as of the writing of this memorandum and order, there have been 289 filings of one kind or another. This Court dismissed the case on October 11, 2009, upon recommendation of the U.S. Magistrate Judge. On July 15, 2011 the Court of Appeals remanded the case to this Court to consider plaintiff's Eighth Amendment, unreasonable force claim against defendant Stasewich, and his failure to protect claim against defendant Enterline. In a case management order (Doc No. 183) entered on October 12, 2011, this case was set for trial on May 21, 2012. On May 15, 2012 (Doc. No. 261) plaintiff filed a written motion to continue the trial because of an alleged "spinal chord" injury putting him in "excruciating pain." The U.S. Magistrate Judge then on May 22, 2012, entered an order (Doc. No. 272) continuing the case to June 11, 2012. Writs of habeas corpus ad testificandum were issued to witnesses. A jury was summoned.

On May 31, 2012, plaintiff moved (Doc No. 277) for appointment of counsel. This motion was denied by the U.S. Magistrate Judge (Doc No. 280) on June 5, 2012. The final pretrial conference was held before the U.S. Magistrate Judge on June 6, 2012, during which plaintiff again (this time orally) moved for a continuance based on his asserted medical condition. In the interest of notifying the parties that they should prepare for trial, this Court entered an order denying the continuance, noting that plaintiff had furnished no medical justification for a continuance.

A jury, witnesses, and the parties, including the plaintiff gathered at the courthouse on June 11, 2012. Plaintiff again orally moved for a continuance, citing his “spinal chord” injury and his “mental health.”¹ The Court was handed a lengthy handwritten motion for a continuance, whereby the plaintiff asked the Court to order the production of his medical records, without any indication that he could not have obtained these for himself. Plaintiff also complained (1) that he did not want to proceed without appointed counsel, and (2) that he had been in many courtrooms, and that he should be seated closer to the jury, instead of on the other side of the courtroom. Defendants offered to allow Plaintiff to dismiss the case without prejudice, but plaintiff declined.

Under all the circumstances, this Court specifically finds that there is no reason whatsoever that plaintiff could not have proceeded to trial in this case on June 11, 2012. Plaintiff walked into the courtroom without apparent discomfort, and walked out as well, talking to anyone who would listen. He made his arguments to the Court for a

¹Plaintiff also made this contention in an “Expedited Consideration” motion which at that time had not been received by the Court.

period of more that thirty minutes, without difficulty. In fact, the Court had trouble getting a word in edgewise. A judgment will enter dismissing this case with prejudice.

SO ORDERED.

Dated: 6/11/2012

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE